ATTACHMENT B
REMARKS

Applicant respectfully traverses the restriction requirement and requests that claims 7 and 8 be examined along with claims 1-6. The Examiner errs in stating "..the process can be used with a product having additional features or limitations over and besides those claimed in group I." However, it is well-settled that additions to a claimed product do not avoid infringement so long as the claim reads on the product. Thus, the addition of features to the product does not make it materially different as erroneously asserted by the Examiner.

In response to the Office Action dated April 5, 2006, applicant has amended claims 1 to 8, without prejudice, and explains below that the claimed structure is not present in the Trevorrow et al '466 patent or any other cited reference.

For ease of reference, claims 1 is reproduced below with certain subject matter shown in bold to highlight the claimed novelty in comparison to the cited prior art.

> 1. In the combination of a metal standing seam roof and a snow guard assembly, said roof comprising a first roofing panel and a second roofing panel, the first and second roofing panels each having a substantially perpendicular longitudinal edge thereon, the longitudinal edge of the first roofing panel positioned in close proximity to the longitudinal edge of the second roofing panel forming a raised seam therealong, said snow guard assembly comprising a decorative fan shaped snow brake plate integral with a base which defines a groove whereby the base is locatable on the metal roof by placement of the groove about a segment of the seam, the improvement comprising:
> **spanning means extending between adjacent snow brakes,** and
> **means on said base for connecting the base with said spanning means, said spanning means and said means for connecting being located below the top of adjacent seams.**

The Office Action relies upon Trevorrow '466 as a base reference to reject claims 1 to 6. The Official Action (p. 3) asserts the following:

> Trevorrow discloses a combination metal standing seam roof and a snow guard comprising: ...an aesthetically pleasing snow brake 4...fastening means on the base 54-58/44 for connecting the base with the spanning means...[said] means comprising i. bosses/bolts 54-58 extending outwardly from the outer side surfaces of the base and the bosses located near the surface of the roof whereby the spanning means is connectable to the bosses adjacent the snow brakes; see figure 5.

With all due respect, the above-identified analysis of the relative locations of the bolts 54/58 and the rod of the cited reference is incorrect based upon the drawings and specification of the Trevorrow '466 patent. Thus, reconsideration of Trevorrow's teachings are respectfully requested.

The Office Action (p. 5) also erroneously asserts that rod 6 or 8 is a pipe and their hollow ends slidably fit over the bolts 54/58. This is contradicted by the specification and drawings of the '466 patent. Thus, at column 8, lines 54-58, bars 6 and 8 are not said to be hollow --- instead, they are said to be one inch in diameter, of clear plastic with chamfered ends 60.

The Office Action refers to Figure 5 of the '466 patent to support the above-quoted erroneous conclusions. However, Figs. 3, 4 and 2 of the reference show beyond debate that the location of the threaded holes 48 are not even in the bar insertion cavities 44 and 46. Further, the rods 6 and 8 are obviously of such a large diameter that they cannot fit into vertical spaces 36 where the bolts 54/58 are located.

To clarify the relative location, a copy of Fig. 4 is reproduced below with labels on the threaded holes 48 and, bar insertion cavities 46 and 44.

48 is for Allen button head screw (Col. 9, lines 24-42)

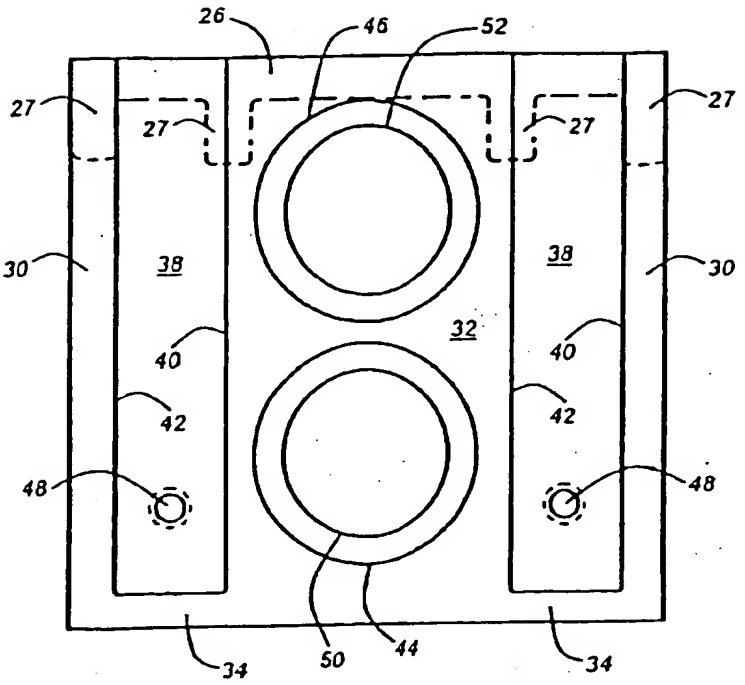

Fig. 4

44 is a bar insertion cavity (Col. 7, lines 54-65)

The specification of the '466 patent also contradicts the Official Action since, in mounting the second support device after the first support device, the bar is first inserted into the round insertion cavity 44 and then the Allen buttonhead screws in threaded holes 48 are tightened ("torqued") to engage the roof seam. See col. 11, lines 14 to 36. Clearly, if the Allen screws were torqued against the seam first it would be impossible to then insert the bar into the bar insertion cavity 44, because the bar is too long to be manipulated like that between two seams.

Accordingly, the bars 6 and 8 of the reference are never secured to or aligned with the Allen buttonhead screws 56/58. As emphasized above, all of the present claims

require "spanning means extending between adjacent snow brakes" and "fastener means on said base for connecting the base with the spanning means." However, the claimed subject matter is clearly missing from the cited reference because of the fact that the bars 6 and 8 are never connected to the Allen buttonhead screws 56/58.

The Office Action relies on Trevorrow '466 as a base reference to reject claim 4. The Official Action (p. 5) asserts the following:

> Claim 4 [is] rejected under 35 U.S.C. 103(a) as being unpatentable over Trevorrow in view of Hockman in view of Alley... and Van der Wyk...As stated before the spanning mean comprises a pipe and the hollow end of the pipe slidably fits over the bosses 54-56 on the bases. The hollow end is only located near the end of the bosses 54-56. Some may argue that the spanning means is not a pipe wherein the hollow end of the pipe slidably fits over the bosses. Van der Wyk discloses a brake or support with openings to accommodate a pipe 32. Alley discloses a snow brake and pipes used in connection with the snow brake. It would have been obvious to one of ordinary skill in the art to modify Trevorrow to include pipes instead of bars 6-8 to lighten the weight of the support structure on the roof.

With all due respect, the above quote analysis of the relative locations of the bolts 54-58 and the rod of the cited reference is incorrect based upon the drawings and specification of the Trevorrow '466 patent. Thus, reconsideration of Trevorrow's teachings are respectfully requested. As pointed out above with respect to claims 1 *et seq.*, the Office Action erroneously asserts that Trevorrow's spanning means comprises "a pipe and the hollow end of the pipe sliably fits over bosses 54-56 on the bosses." This is totally contradicted by the specification and drawings of the '466 patent. Thus, at column 8, lines 54-58, bars 6 and 8 are not said to be hollow - - instead they are said to be 1 inch in diameter, of clear plastic with chamfered ends 60. Also, with respect to the issue of the construction of the rods 6 and 8, see figure 7 where they are partially depicted as being solid by the cross-hatching.

Furthermore, the Office Action quoted above asserts that "the hollow end is only located near the end of the bosses 54-56." However, figures 2 through 4 of the Trevorrow reference show beyond debate that the location of the threaded holes 48 are not even in the bar insertion cavities 44 and 46. Further, the rods 6 and 8 are obviously of such a large diameter they cannot fit into vertical spaces which are where the bolts 54/58 are located. As shown above with respect to an annotated copy of Figure 4 of the reference, the diameter of the circle identified as 44 or bar insertion cavity (col. 7, lines 54-65) is larger than the width of the channel wherein threaded holes 48 are located for accepting the Allen buttonhead screws or bolts 54/56.

With respect to the Van der Wyk '877 reference, the Examiner has asserted that it "discloses a brake or support with openings to accommodate a pipe 32". A careful reading of the Van der Wyk '877 patent specification reveals that it does not disclose a "pipe". It simply discusses a pole which is not disclosed as being hollow and in the form of a pipe. Accordingly, it is respectfully submitted that the Examiner has read the Van der Wyk reference with hindsight and provided attributes to the disclosure that are not present. Accordingly, it is requested that the Van der Wyk '877 patent reference be withdrawn.

Finally, the Examiner relies upon the Alley '166 patent and states that it "discloses a snow brake and pipes used in connection with the snow brake." This reference fails to teach the use of separate spanning means in the form of hollow pipes and in which the hollow end of the pipes are connected to the snow brake as claimed in the present claims. Simply put, the continuous pipes 12 and 13 of the Alley '166 patent

simply pass through holes formed in bracket 11. Furthermore, it is clear that the location of continuous pipes 12 and 13 are not adjacent to the roof surface, specifically neither of them are below the highest point of the raised seam. Simply put, the pipes 12 and 13 of the Alley '166 patent are not similar to the construction and operation of the subject matter of applicant's claims and the Alley '166 patent is not a sufficient reference to support a *prima facie* case of obviousness. Accordingly, it is requested that the Alley '166 patent be withdrawn as a reference.

In summary, the Trevorrow '466 patent taken alone or in conjunction with the Hockman, Alley and Van der Wyk references does not teach the claimed subject matter of the present application. In the absence of further more pertinent prior art, Applicant respectfully submits that the present claims are patentable over the references of record. Reconsideration and allowance are respectfully requested.

END REMARKS